



SO ORDERED.

SIGNED this 08 day of September, 2008.

**THIS ORDER HAS BEEN ENTERED ON THE DOCKET.
PLEASE SEE DOCKET FOR ENTRY DATE.**

**R. Thomas Stinnett
UNITED STATES BANKRUPTCY JUDGE**

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF TENNESSEE
WINCHESTER DIVISION**

In re:

JAMES HAROLD WHEELER, JR.,

Debtor(s).

No. 08-12484
Chapter 13

ORDER

Pending before the court is the debtor's proposed chapter 13 plan and the chapter 13 trustee's objection to confirmation. The trustee contends that the debtor's claimed exemptions exceed the statutory limits and the debtor has failed to remit plan payments pending confirmation. The issue of the debtor's failure to remit payments pending confirmation has been resolved, and the court took under advisement the issue of exemptions claimed by the debtor.

The debtor filed Schedule C - Property Claimed as Exempt with his petition on May 23, 2008, and claimed a \$3,400 exemption in a mitre box and saw, table saw, skill saw, hammers, drills, tile saw, and miscellaneous hand tools valued at \$5,000. In support of the claimed exemption, the Schedule cites Tenn. Code Ann § 26-2-111(4)(West 2008) which limits the debtor's exemption in implements, professional books, or tools of the trade to \$1,900. The trustee filed his objection on June 23, 2008, and the debtor promptly filed an amended Schedule C. As in the

original version, the debtor claims an exemption under Tenn. Code Ann. § 26-2-103(West 2008) of \$1,000 in household furniture and appliances valued at \$1,000, and \$1,500 in a vehicle valued at \$4,000, for a total of \$2,500 in personal property exemptions. In the amended Schedule, the debtor cites Tenn. Code Ann. § 26-2-103(West 2008) in addition to Tenn. Code Ann. § 26-2-111(4)(West 2008) in support of a \$3,400 exemption in the tools. The Schedule is somewhat unclear with respect to the tools. Rather than pinpointing the amounts claimed exempt under each cited statute, the debtor cites both statutes and provides a total exemption amount of \$3,400. Presumably, the debtor intends to claim the \$1,900 maximum exemption permitted by § 26-2-111(4) for tools of the trade plus the remaining \$1,500 exemption permitted by § 26-2-103 after the \$2,500 exemption already claimed by the debtor for other personal property. Construed thus, the debtor has \$3,400 available to claim as exempt in the tools. Therefore, the debtor's June 23, 2008, amendment to Schedule C corrects the deficiency noted by the trustee in the originally filed Schedule and does not claim an exemption in excess of that afforded by state statute.

The trustee's objection to confirmation of the debtor's plan for claiming an exemption amount in excess of that afforded by the state statutes is hereby overruled.

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